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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**OAK HARBOR FREIGHT LINES, INC.**

**Case No.:3:13-CV-01100-HZ**

**Plaintiff,**

**v.**

**THOMAS E. PEREZ, in his official capacity  
as Secretary of Labor, U.S. Department of  
Labor.<sup>1</sup>**

**DEFENDANT'S MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT**

**FED. R. CIV. P. 12(b)(1) AND 12(b)(6)**

**Defendant.**

Defendant Thomas E. Perez, in his official capacity as Secretary of the U.S. Department of Labor, moves this Court for dismissal of Plaintiff's Complaint under Fed. R. Civ. P. 12(b)(1),

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<sup>1</sup> Under Fed. R. Civ. P. 25(d), Thomas E. Perez has been substituted for Seth D. Harris in his official capacity as Defendant in this case.

or in the alternative, under 12(b)(6). Grounds for this motion are fully set forth in the memorandum filed in support of this motion.

Pursuant to Local Rule 7-1, the undersigned contacted counsel for Plaintiff, and Plaintiff opposes this motion.

Respectfully submitted this 3rd day of September, 2013.

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Assistant Attorney General  
JUDRY L. SUBAR  
Assistant Branch Director,  
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/s/ Bradley H. Cohen  
BRADLEY H. COHEN  
Trial Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2013, copies of Defendant's motion to dismiss, memorandum in support of this motion, and proposed order were filed electronically via the Court's ECF system, through which a notice of the filing will be sent to all counsel of record.

/s/ Bradley H. Cohen  
BRADLEY H. COHEN